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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/065,891	11/27/2002	Kenneth M. Lenkiewicz	71189-1454	5292
20915	7590	09/21/2005	EXAMINER	
MCGARRY BAIR PC 171 MONROE AVENUE, N.W. SUITE 600 GRAND RAPIDS, MI 49503			SNIDER, THERESA T	
			ART UNIT	PAPER NUMBER
			1744	

DATE MAILED: 09/21/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/065,891

Applicant(s)

LENKIEWICZ ET AL.

Examiner

Theresa T. Snider

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 27 June 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-34, 36-41 and 58-68 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 58, 59, 63 and 64 is/are allowed.
- 6) ☒ Claim(s) 1-7, 13-16, 19-25, 30, 36-41, 60 and 65-68 is/are rejected.
- 7) ☒ Claim(s) 8-12, 17, 18, 26-29, 31-34, 61 and 62 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C.: § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

1. Claims 3, 36-41 and 66-67 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Exemplary of such:

Claim 3, line 3, 'main' should be deleted.

Claim 36, line 1, the claim is dependent on canceled claim 35.

Claim 66, line 4, 'housing' should be inserted after 'elongated'.

Claim Rejections - 35 USC § 103

2. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
3. Claims 1-2, 4, 7, 14-15, 23-24, 36-37 and 53-54 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. in view of Trautloff et al..

Thomas et al. discloses a similar cleaner however fails to disclose an air/liquid separator.

Thomas et al. discloses a housing assembly including a housing enclosure centrally mounted on a base assembly and a handle formed on the housing enclosure (fig. 2, #9,13,35).

Thomas et al. discloses a suction motor and impeller mounted within the housing enclosure (fig. 2, #2).

Thomas et al. discloses a solution tank removably mounted to the base at one side of the enclosure (fig. 2, #4).

Thomas et al. discloses a recovery tank removably mounted to the base at another side of the enclosure (fig. 2, #1). Trautloff et al. discloses an air/liquid separator in a recovery tank of a cleaner (fig. 5, #71). It would have been obvious to one of ordinary skill in the art to provide the separator of Trautloff et al. in Thomas et al. to allow for storage of the largest of liquid in the tank before having to cease operation to empty the tank.

With respect to claim 2, Thomas et al. discloses the tank mounted to opposite sides of the enclosure and in a forward and rearward direction (fig. 1, #4,35,1).

With respect to claims 4 and 15, Thomas et al. discloses the tanks being able to be dropped vertically (fig. 2, #4,1).

With respect to claim 36, Thomas et al. discloses the impeller assembly in communication with the suction hose (col. 2, lines 7-10).

With respect to claims 7 and 37, Thomas et al. discloses the recovery tank fluidly connected between the hose and the impeller (fig. 1, dashed line, 1, fig. 2, #1,2).

With respect to claim 14, Thomas et al. discloses the handle integrally molded with the enclosure (fig. 2, #35,23).

With respect to claims 23-24 and 53-54, Thomas et al. discloses at least one of the tanks having indented hand grips (fig. 2, unnumbered element on #4, located diagonally left from #33 and unnumbered element on #1, located diagonally right from 8').

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4. Claims 1-2, 4-7, 9, 14-16, 23-25, 36-37, 39 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over Østergaard in view of Trautloff et al..

Østergaard discloses a similar cleaner however fails to disclose an air/liquid separator.

Østergaard discloses a housing assembly including a housing enclosure centrally mounted on a base assembly and a handle formed on the housing enclosure (fig. 2, #1,7,9,8).

Østergaard discloses a suction motor and impeller mounted within the housing enclosure (fig. 2, #20).

Østergaard discloses a solution tank removably mounted to the base at one side of the enclosure (figs. 1-2, #4).

Østergaard discloses a recovery tank removably mounted to the base at another side of the enclosure (figs. 1-2, #5). Trautloff et al. discloses an air/liquid separator in a recovery tank of a cleaner (fig. 5, #71). It would have been obvious to one of ordinary skill in the art to provide the separator of Trautloff et al. in Thomas et al. to allow for storage of the largest of liquid in the tank before having to cease operation to empty the tank.

With respect to claims 2, Østergaard discloses the tank mounted to opposite sides of the enclosure and in a forward and rearward direction (fig. 1, #4,5).

With respect to claims 4 and 15, Østergaard discloses the tanks being able to be dropped vertically (figs. 1 and 3, #1,4,5).

With respect to claims 5 and 16, Østergaard discloses a flexible suction hose with a cleaning tool mounted thereto (fig. 1, #3).

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With respect to claims 6 and 36, Østergaard discloses the impeller assembly in communication with the suction hose (col. 4, lines 37-39).

With respect to claims 7 and 37, Østergaard discloses the recovery tank fluidly connected between the hose and the impeller (col. 3, lines 15-30).

With respect to claims 9 and 39, Østergaard discloses a seal between the conduit and the tank (fig. 2, #11).

With respect to claim 14, Østergaard discloses the handle integrally molded with the enclosure (fig. 2, #9).

With respect to claims 23-24 and 53-54, Østergaard discloses at least one of the tanks having indented hand grips (fig. 4, #18, 2 unnumbered features in sidewall).

With respect to claims 25 and 55, Østergaard discloses the clean solution and recovery tanks being transparent or translucent (col. 2, lines 65-67).

3. Claims 10-11, 19 and 40-41 are rejected under 35 U.S.C. 103(a) as being unpatentable over Østergaard in view of Trautloff et al. as applied to claims 9 and 40, respectively, above, and further in view of Kent.

Østergaard in view of Trautloff et al. discloses a similar cleaner however fails to disclose exhaust vents.

Kent discloses a portable extraction cleaner having exhaust and inlet vents in its housing (col. 5, lines 60-61). It would have been obvious to one of ordinary skill in the art to provide the exhaust and inlet vents of Kent in Østergaard in view of Trautloff et al. to prevent the buildup of heat in the enclosure.

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5. Claims 21-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Østergaard in view of Trautloff et al. and further in view of Lockhart et al..

Østergaard in view of Trautloff et al. discloses a similar cleaner however fails to disclose a pair of cord retainers.

Østergaard discloses the cleaner having a cord (fig. 2, #22). Østergaard discloses the desire to store the accessories on the cleaner (col. 4, lines 13-23). Lockhart et al. discloses a cleaner with vertical cord wrap retainers (fig. 3, unnumbered element above #177 and below #33). It would have been obvious to one of ordinary skill in the art to provide the cord wrap retainers of Lockhart et al. in Østergaard in view of Trautloff et al. to allow for the most effective storage of the cord.

6. Claim 25 is rejected under 35 U.S.C. 103(a) as being unpatentable over Thomas et al. in view of Trautloff et al. as applied to claim 1 above, and further in view of Østergaard.

Thomas et al. in view of Trautloff et al. discloses a similar cleaner however fails to disclose whether the tanks are transparent or translucent.

Østergaard discloses a portable extraction cleaner with a clean solution and a recovery tank that are transparent or translucent (col. 2, lines 65-67). It would have been obvious to one of ordinary skill in the art to make the tanks of Thomas et al. in view of Trautloff et al. transparent or translucent to allow for easily observing the liquid levels of the tanks from the outside, as disclosed in Østergaard.

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8. Claims 30, 60 and 68 are rejected under 35 U.S.C. 103(a) as being unpatentable over Østergaard in view of Trautloff et al. as applied to claim 1 above, and further in view of Crouser et al..

Østergaard discloses a similar cleaner however fails to disclose the recovery tank having a pour spout.

Østergaard discloses a pour opening located at an upper portion of the recovery tank, adjacent the housing enclosure (figs. 4-5, #19).

Crouser et al. discloses a portable extraction cleaner with a recovery tank having a pour spout (fig. 2, #84). It would have been obvious to one of ordinary skill in the art to provide the pour spout of Crouser et al. in Østergaard in view of Trautloff et al. to allow for ease in emptying the tank.

With respect to claim 68, Østergaard discloses at least one of the tanks having indented hand grips (fig. 4, #18, 2 unnumbered features in sidewall).

Double Patenting

5. Applicant is advised that should claim 4 be found allowable, claim 15 will be objected to under 37 CFR 1.75 as being a substantial duplicate thereof. When two claims in an application are duplicates or else are so close in content that they both cover the same thing, despite a slight difference in wording, it is proper after allowing one claim to object to the other as being a substantial duplicate of the allowed claim. See MPEP § 706.03(k).

Response to Arguments

6. Applicant's arguments filed 6/27/2005 have been fully considered but they are not persuasive. Applicant urges Thomas et al. fails to disclose a handle on the housing enclosure. Applicant is believed to be in error because, in Thomas et al. the base is #9 and the housing enclosure is #2,23,26,35, joined together by unnumbered elements to right and left of #14. Applicant urges Thomas et al. fails to disclose the handle integrally molded with the enclosure. This argument is deemed moot, for the previous reason, because the upright #23 is considered to be part of the enclosure.

Applicant urges that Østergaard fails to disclose an impeller in the housing. Applicant is believed to be in error because Østergaard discloses an impeller in the housing (claim 1, a).

Applicant urges Østergaard fails to disclose the handle integrally mounted with the enclosure. This argument is not persuasive because Østergaard discloses the handle integral with the enclosure (fig. 5, #18).

Applicant urges Østergaard fails to disclose indented handgrips in the sidewall of the recovery and the solution tanks. This argument is not persuasive because Østergaard discloses unnumbered elements in the sidewall that are indented. A user could put is fingers in the indentation to allow for handling of the tanks.

Applicant urges Østergaard in view of Kent fails to disclose exhaust vents in the sidewalls of the housing base. This argument is not persuasive because Kent discloses the use of exhaust vents in an enclosure to allow for cooling of an enclosed motor. It would have been obvious to one of ordinary skill in the art to provide the vents of Kent in Østergaard in view of Trautloff et al. to allow for cooling of enclosed components. It would have been obvious to one

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of ordinary skill in the art to determine the most appropriate location of the vents to allow for the most effective cooling of the enclosed elements.

Applicant urges Østergaard in view of Lockhart et al. fails to disclose the use of cord wrap retainers on the housing enclosure. This argument is not persuasive because Lockhart et al. discloses it is known the art to use cord wrap retainers on a cleaner. Østergaard discloses the mounting of a storage hook on the housing enclosure (fig. 2, #24). It would have been obvious to one of ordinary skill in the art to provide the retainers of Lockhart et al. on the housing enclosure of Østergaard in view of Trautloff et al. to allow for the most effective storage of the cord.

Applicant urges Østergaard in view of Crouser et al. discloses a pour spout adjacent the housing enclosure. This argument is not persuasive because Østergaard discloses the discharge opening 'adjacent' the housing enclosure (figs. 4-5, #19). Applicant fails to disclose what constitutes 'adjacent'. For example, something on #6 would not be considered 'adjacent' the housing enclosure.

Allowable Subject Matter

7. Claims 58-59 and 63-64 are allowed.
8. Claims 3, 65 and 67 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.
9. Claim 66 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action.

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10. Claims 8-12, 17-18, 26-29, 31-34 and 61-62 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

11. The following is a statement of reasons for the indication of allowable subject matter: the prior art discloses a portable extraction cleaner with housing assembly including a housing enclosure centrally mounted on a base assembly and a handle formed on the housing enclosure, a suction motor and impeller mounted within the housing enclosure, a solution tank removably mounted to the base at one side of the enclosure and a recovery tank removably mounted to the base at another side of the enclosure HOWEVER fails to disclose or fairly suggest a decorative face plate that is removably mounted to the housing enclosure and that is adapted to cover at least a substantial visible portion of the visible surface of the housing enclosure OR the recovery tank having an air/liquid separator formed from a riser tube having an internal divider separating the riser tube into fluidly isolated first and second conduits, each of the first and second conduits fluidly connected to the interior of the recovery tank through an aperture at an upper end thereof. The prior art discloses a portable extraction cleaner with housing assembly including a housing enclosure centrally mounted on a base assembly and a handle formed on the housing enclosure, a suction motor and impeller mounted within the housing enclosure, a solution tank removably mounted to the base at one side of the enclosure and a recovery tank removably mounted to the base at another side of the enclosure, wherein the tanks are mounted to forward and rearward ends of the housing assembly HOWEVER fails to disclose or fairly suggest the handle oriented in a forward to rear direction. The prior art discloses a portable extraction cleaner with housing assembly having a housing enclosure with a longitudinal axis centrally mounted on a base and a

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handle formed on the housing enclosure, a suction source mounted within the housing enclosure, a solution tank removably mounted to the base at one side of the enclosure and a recovery tank removably mounted to the base at another side of the enclosure having an air-liquid separator HOWEVER fails to disclose or fairly suggest the handle in alignment with the longitudinal axis of the base.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Theresa T. Snider whose telephone number is (571) 272-1277. The examiner can normally be reached on Monday-Thursday (5:30am-2:00pm).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Kim can be reached on (571) 272-1142. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Theresa T. Snider
Primary Examiner
Art Unit 1744

9/19/2005